

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

THOMAS PETOFF,	:	Civil No. 3:24-cv-78
	:	
Plaintiff	:	(Judge Mariani)
	:	
v.	:	
	:	
LT. DELMONICO, <i>et al.</i> ,	:	
	:	
Defendants	:	

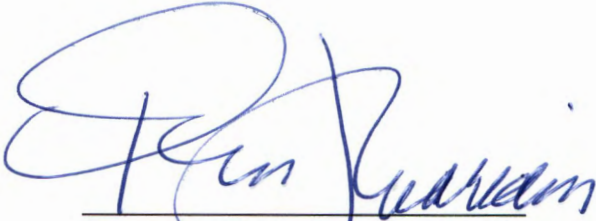
**ORDER**

**AND NOW**, this 20<sup>th</sup> day of August, 2024, upon consideration of the motion (Doc. 14) to dismiss and for summary judgment by Defendants Delmonico and Yonkin, and the parties' respective briefs in support of and in opposition to said motion, and for the reasons set forth in the accompanying Memorandum, **IT IS HEREBY ORDERED THAT** the motion (Doc. 14) is **GRANTED** as follows:

1. The Rule 12(b)(6) motion (Doc. 14) is **GRANTED**. The First, Fifth, and Eighth Amendment claims are **DISMISSED**, as a *Bivens* remedy does not extend to Plaintiff's claims.
2. The Rule 56 motion (Doc. 14) is **GRANTED** based on the favorable termination rule. The Clerk of Court is directed to **ENTER** judgment in favor of Defendants Lieutenant Delmonico and Nurse Yonkin, and against Plaintiff.
3. The claims against the John Doe individuals are **DISMISSED** pursuant to Federal Rule of Civil Procedure 4(m).
4. The Clerk of Court is directed to **CLOSE** this case.



5. Any appeal from this Order is **DEEMED** frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).



Robert D. Mariani  
United States District Judge